

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CHEVRON CORPORATION,

Plaintiff,

V.

STEVEN DONZIGER, et al.,

Defendants.

$$\begin{matrix} \mathbf{X} \\ \vdots \\ \vdots \\ \vdots \\ \vdots \\ \vdots \\ \vdots \\ \mathbf{X} \end{matrix}$$

11 Civ. 0691 (LAK)

**DECLARATION OF ANDREA E. NEUMAN IN SUPPORT OF CHEVRON
CORPORATION'S MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION TO
COMPEL JOSHUA RIZACK AND THE RISING GROUP CONSULTING, INC. TO
PRODUCE THE MIRROR IMAGES OF THEIR ELECTRONIC DEVICES FOR
INSPECTION**

I, ANDREA E. NEUMAN, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an attorney licensed to practice law in the State of New York and before this Court. I am a partner in the law firm of Gibson, Dunn & Crutcher LLP, and I am counsel for Chevron Corporation (“Chevron”) in the above-captioned matter. I am personally familiar with the facts set forth herein, unless the context indicates otherwise.

2. Attached to this declaration as **Exhibit 1** is a true and correct copy of a document titled “Contratos, Razones y Recomendaciones” produced by J. Rizack and bearing Bates numbers RIZACKPJD-0000521-22. The certified translated document is Exhibit 5350 to J. Rizack’s Deposition on October 5, 2018. The document purports to grant a 0.25% interest in the Ecuadorian judgment to J. Rizack for his purported services as an “expert in financing” who “help[ed] with fund raising,” “organizing POINTS, contracts, expenses and revenues,” and as “key in organizing investments and attracting more funds” in the future.

3. Attached to this declaration as **Exhibit 2** are excerpts from a true and correct copy of the transcript of the depositions of Josh Rizack on June 26, 2018 and October 5, 2018.

4. Attached to this declaration as **Exhibit 3** is a true and correct copy of a spreadsheet, produced by J. Rizack and bearing Bates numbers JRIZACK0000020-39. The document at JRIZACK0000028 purports to show a monthly fee for Donziger and Associates from \$25,000 to \$35,000.

5. Attached to this declaration as **Exhibit 4** are excerpts from a true and correct copy of the transcript of the contempt hearing held in this matter on June 28, 2018.

6. Attached to this declaration as **Exhibit 5** is a true and correct copy of a document with scans of two checks, produced by J. Rizack and bearing Bates numbers TD BANK 0000365. The document shows a check to Josh Rizack for \$12,566.33 dated October 26, 2016.

7. Attached to this declaration as **Exhibit 6** is a true and correct copy of a document titled Agreement for Compensation and Investment of Professional Services dated January 11, 2017 and produced by J. Rizack and bearing Bates numbers RIZACKPJD-0000205-212. The document purports to give J. Rizack a 0.25% interest in the Ecuadorian Judgment.

8. Attached to this declaration as **Exhibit 7** are excerpts from a true and correct copy of the transcript of the deposition of David Yass on February 5, 2019.

9. Attached to this declaration as **Exhibit 8** is a true and correct copy of an October 5, 2016 letter from Jay L. Goldstein to Alan Lenczner attaching an investment agreement for \$200,000, produced by Wellbeck Partners LLC and bearing Bates number WELLBECK00028.

10. Attached to this declaration as **Exhibit 9** are excerpts from a true and correct copy of the transcript of the deposition of Michael Delgass on February 5, 2019.

11. Attached to this declaration as **Exhibit 10** is a true and correct copy of Wellbeck Partners LLC's Interrogatory Responses and Objections to Plaintiff's Subpoena, dated October 31, 2018.

12. Attached to this declaration as **Exhibit 11** is a true and correct copy of an October 26, 2018 email chain from Michael Delgass to John W. Cerreta and Robert Ross with the subject line "Wellbeck," produced by Wellbeck Partners LLC and bearing Bates numbers WELLBECK 00443-445.

13. Attached to this declaration as **Exhibit 12** is a true and correct copy of a January 22, 2017 email chain from Joshua Rizack to David Yass with the subject line "Ecquador" [sic], produced by Wellbeck Partners LLC and bearing Bates number WELLBECK 00125.

14. Attached to this declaration as **Exhibit 13** is a true and correct copy of a document produced by J. Rizack and bearing Bates number RIZACKPJD-0000069. This document purports to be a return on investment schedule.

15. Attached to this declaration as **Exhibit 14** is a true and correct copy of an email chain dated October 22, 2016, forwarding a July 10, 2016 email chain among Steven Donziger, Bill Twist, and John van Merkensteijn, produced by J. van Merkensteijn and bearing Bates numbers JVM 002161-68. The email attaches a memorandum that lists Josh Rizack as a contact.

16. Attached to this declaration as **Exhibit 15** is a true and correct copy of an email dated September 13, 2017 from Steven Donziger to Joshua Rizack and Aaron Page, produced by J. Rizack and bearing Bates number RIZACKPJD-0001569. In this email, S. Donziger asks J. Rizack and A. page to "coordinate and give me a contract for an investor to put in 25,000 at a 10% premium over the last round."

17. Attached to this declaration as **Exhibit 16** is a true and correct copy of an email chain dated September 28, 2016 from Aaron Page to Alan Lenczner, Steven Donziger, and Joshua

Rizack, produced by J. Rizack and bearing Bates numbers RIZACKPJD-0001826-1828. In a September 28, 2016 email from Aaron Page, he writes that “Josh will be working with the investor on the side letter.”

18. Attached to this declaration as **Exhibit 17** is a true and correct copy of an email chain dated September 22, 2016 from Joshua Rizack to Steven Donziger and Aaron Page, produced by J. Rizack and bearing Bates numbers RIZACKPJD-0001846-1848. In a September 22, 2016 email from S. Donziger to A. Page and J. Rizack, he asks “Can one of u please draft a contract for me.” J. Rizack responds, “See attached contract...Everything else is changed.”

19. Attached to this declaration as **Exhibit 18** is a true and correct copy of an email chain dated September 26, 2016 from Joshua Rizack to Steven Donziger with a subject title of “does this look ok?,” produced by J. Rizack and bearing Bates numbers RIZACKPJD-0001837-1844. In a September 26, 2016 email from J. Rizack, he advises S. Donziger “It looks good but would not attack the 2nd circuit. Attacking the judges makes the story look weak. Use the facts as you did in the beginning.”

20. Attached to this declaration as **Exhibit 19** is a true and correct copy of an email dated July 19, 2017 from Steven Donziger to Joshua Rizack, produced by J. Rizack and bearing Bates number RIZACKPJD-0001635. S. Donziger writes to J. Rizack, “i also have a 10 am call on friday [sic] with another potential investor maybe u should be on the call.”

21. Attached to this declaration as **Exhibit 20** is a true and correct copy of an email dated October 26, 2016 from Joshua Rizack to Steven Donziger with the subject line “Daniel call,” produced by J. Rizack and bearing Bates number RIZACKPJD-0001786. J. Rizack writes to Donziger, “Just got off the call with Daniel, call me. He was not happy that you did not join the call.”

22. Attached to this declaration as **Exhibit 21** is a true and correct copy of an email dated December 8, 2016 from Steven Donziger to Joshua Rizack with the subject line “Updated ecuador investment docs” and a document attached to the email titled “CONFIDENTIAL MEMORANDUM” describing an “INVESTMENT OPPORTUNITY,” produced by J. van Merkensteijn and bearing Bates numbers JVM 003783-90. The attached document describing the Ecuadorian judgment as investment opportunity shows that J. Rizack and his contact information is listed alongside S. Donziger under “INQUIRIES” on page 6 (JVM 003789).

23. Attached to this declaration as **Exhibit 22** is a true and correct copy of an email dated May 30, 2018 from Steven Donziger to Joshua Rizack, produced by J. Rizack and bearing Bates number RIZACKPJD-0000176. Donziger stated in the email that he was “still assessing whether and what kinds of privileges attach to the documents” Rizack possessed.

24. Attached to this declaration as **Exhibit 23** is a true and correct copy of an email dated January 23, 2017 email chain between J. Rizack and Christien Lam with the subject title of “Accounting,” produced by M. K. Sullivan and bearing Bates number MKS-000854-857. This document was not produced by J. Rizack.

25. Attached to this declaration as **Exhibit 24** is a true and correct copy of an email dated July 13, 2016 email chain between J. Rizack and S. Donziger with the subject title of “Ecuador cap chart,” produced by J. van Merkensteijn and bearing Bates number JVM 004105-06. This document was not produced by J. Rizack.

26. Attached to this declaration as **Exhibit 25** is a true and correct copy of an email dated February 26, 2018 email between J. Rizack and S. Donziger with the subject title of “Agreement needs to be signed by Lenczner,” produced by M. K. Sullivan and bearing Bates number MKS 2087-95. This document was not produced by J. Rizack.

27. Attached to this declaration as **Exhibit 26** is a true and correct copy of a February 7, 2019 letter from J. Rizack to A. Neuman. In this letter, J. Rizack admits that “many files and emails were previously deleted from my devices.”

28. Attached to this declaration as **Exhibit 27** is a true and correct copy of a March 4, 2019 email chain between J. Rizack, A. Neuman, and V. Eisinger. On a February 26, 2019 email from J. Rizack to V. Eisinger, Rizack writes, “I am not allowing you to have a forensic expert look into my computer.” On a February 28, 2019 email from J. Rizack to A. Neuman and V. Eisinger, J. Rizack told Chevron that he had just “discovered” previously undisclosed “old backup hard drives” containing relevant documents.

29. Attached to this declaration as **Exhibit 28** is a true and correct copy of a March 11, 2019 email chain between J. Rizack, A. Neuman, and V. Eisinger. In a March 8, 2019 email, J. Rizack writes that Donziger “need[ed] more time to review” the documents. Rizack also notes in the same email and stated he “would be willing to submit a list of computer consultants who could search [his] devices.”

30. Attached to this declaration as **Exhibit 29** is a true and correct copy of a March 27, 2019 email chain between J. Rizack, A. Neuman, and V. Eisinger. Rizack listed the search terms that he claimed to have used to make his production.

31. Attached to this declaration as **Exhibit 30** is a true and correct copy of an email chain dated October 14, 2016 from between Jay Goldstein and J. Rizack, produced by J. Rizack and bearing Bates number RIZACKPJD-0003974. The earliest message shown on this email chain has the subject line of “Re: Send data...,” showing that the produced email chain is missing an original message.

32. Attached to this declaration as **Exhibit 31** is a true and correct copy of an email chain dated February 15, 2017 email chain between S. Donziger, J. Rizack and A. Page, produced

by J. Rizack and bearing Bates number RIZACKPJD-0004071. A message on February 14, 2017 from A. Page with a subject line of “Investments/contracts/interests” states, “Here is everything I have been able to gather.” However, Rizack only produced the top email without any attachments.

33. Attached to this declaration as **Exhibit 32** is a true and correct copy of an email chain dated May 30, 2018 email chain between S. Donziger and J. Rizack, produced by J. Rizack and bearing Bates numbers RIZACKPJD-0000172-75. In a May 30, 2018 email to J. Rizack, S. Donziger tells him to “Hold on.” Rizack responds that he “Need[s] to respond.”

34. Attached to this declaration as **Exhibit 33** is a true and correct copy of an email chain dated June 15, 2018 between S. Donziger and J. Rizack, produced by J. Rizack and bearing Bates number RIZACKPJD-0000179. S. Donziger writes to J. Rizack on June 15, 2018, “I believe you should wait” and “Remember some material you have may be privileged...please make the materials available to me first to conduct a privilege review before turning over.”

35. Attached to this declaration as **Exhibit 34** is a true and correct copy of a document titled “Retainer Agreement” for S. Donziger, dated January 5, 2011, and originally offered as PX 558. This Retainer Agreement discusses in ¶ (3)(a) and ¶ (3)(b) the Contingency compensation for Donziger, and the “monthly retainer” that Donziger received.

36. Attached to this declaration as **Exhibit 35** are excerpts from a true and correct copy of the transcript of the deposition of Steven Donziger on June 25, 2018.

37. Attached to this declaration as **Exhibit 36** is a true and correct copy of an email chain dated May 2, 2018 email chain between S. Donziger and J. Rizack, produced by J. Rizack and bearing Bates number RIZACKPJD-0000156. In an April 24, 2018 email to S. Donziger, Rizack asks him, “Did you have a chance to review the chevron subpoena?” Donziger responds “Call me Thursday.”

38. Attached to this declaration as **Exhibit 37** is a true and correct copy of an email chain dated February 22, 2016 email between S. Donziger, P. S. Cordova, J. Rizack, and A. M. Page, produced by A. M. Page and bearing Bates number AMPagePJD_0011719. S. Donziger adds Page and Rizack noting further legal questions for Ecuador.

39. Attached to this declaration as **Exhibit 38** is a true and correct copy of an email chain dated July 29, 2016 email chain between S. Donziger, J. Rizack, and A. M. Page, produced by A. M. Page and bearing Bates number AMPagePJD_0004919. Page writes to Donziger and Rizack about “working on escrow agreements” after “Josh [Rizack] and I talked.”

40. Attached to this declaration as **Exhibit 39** is a true and correct copy of an email chain dated December 31, 2011 email from W. O’Reilly to J. Rizack, produced by M. K. Sullivan and bearing Bates number MKS-0008021. O’Reilly writes to Rizack with a proposal in creating a “501c4 entity...and the identify of its funders are protected under the law.”

41. Attached to this declaration as **Exhibit 40** is a true and correct copy of an email chain dated September 26, 2016 email chain from D. Sherman to S. Donziger and J. Rizack, produced by D. Sherman and bearing Bates number Sherman00000353. Sherman writes to Donziger and Rizack with his contact information after Donziger notes in a September 26, 2016 email that “we are redoing your investment deal contract.”

42. Attached to this declaration as **Exhibit 41** is a true and correct copy of an email chain dated November 1, 2017 email chain from J. Rizack to D. Yass, produced by Wellbeck and bearing Bates number WELLBECK00409. On October 31, 2017, Rizack sends to Yass an email with the subject “Good news on Ecuador enforcement – see below.”

43. Attached to this declaration as **Exhibit 42** is a true and correct copy of an email chain dated October 5, 2016 email from J. Rizack to J. Goldstein, produced by Wellbeck and

bearing Bates number WELLBECK00346. Rizack writes to Goldstein, “I had a meeting with David Yass and he asked me to send the attached documents for your signature.”

44. Attached to this declaration as **Exhibit 43** is a true and correct copy of an email chain dated November 29, 2016 email chain from D. Yass to J. Rizack, produced by Wellbeck and bearing Bates number WELLBECK00148. Rizack and Yass discuss connecting Yass’ “investment manager” with “the lawyer in Canada and also possibly [Rizack’s] guy in NY.”

45. Attached to this declaration as **Exhibit 44** is a true and correct copy of an email chain dated January 22, 2017 email chain from D. Yass to J. Rizack, produced by Wellbeck and bearing Bates number WELLBECK00155. In a January 22, 2017 email, Yass asks Rizack, “Is this actually good news? Would this bring in more investors or less?,” and Rizack responds on the same day, “Yes, this is good news. This should bring in more invests.” Yass responds on the same date, writing, “you scare me a little on this investment when you misspell ECUADOR, Joshua.”

46. Attached to this declaration as **Exhibit 45** is a true and correct copy of an email chain dated September 28, 2016 email from S. Donziger to J. Rizack and A.M. Page, produced by A. Page and bearing Bates number AMPagePJD_0006299. Donziger asks that Rizack and Page maintain copies of investment agreements.

47. Attached to this declaration as **Exhibit 46** is a true and correct copy of an email chain dated August 3, 2016 email chain from J. Rizack to S. Donziger and A.M. Page, produced by Page and bearing Bates number AMPagePJD_0004553. Rizack says in an August 3, 2016 email, “Just call [an investor] and ask him what the issue is. When the money comes in his partners should be happy.”

48. Attached to this declaration as **Exhibit 47** is a true and correct copy of an email chain dated September 15, 2016 email chain from Daniel Israel to S. Donziger, A.M. Page, J. Rizack, and others, produced by Page and bearing Bates number AMPagePJD_0004818.

49. Attached to this declaration as **Exhibit 48** is a true and correct copy of an email chain dated November 8, 2016 email chain from Anthony Gordon to S. Donziger, A.M. Page, and J. Rizack, produced by Page and bearing Bates number AMPagePJD_0004984. Donziger introduces Page and Rizack to a potential investor on a November 7, 2016 email.

50. Attached to this declaration as **Exhibit 49** is a true and correct copy of an email chain dated February 13, 2017 email chain from A.M. Page to J. Rizack, produced by Page and bearing Bates number AMPagePJD_0003785. Rizack sends an email dated February 13, 2017 noting the advisor agreements, funder agreements, and law firm documents that he has.

51. Attached to this declaration as **Exhibit 50** is a true and correct copy of an email chain dated September 17, 2017 email from S. Donziger to J. Rizack and A.M. page, produced by Page and bearing Bates number AMPagePJD_0003515. Donziger asks “josh – can u pls draft,” regarding “the addendum for Ian...for a 25,000 investment at a 20% premium.”

52. Attached to this declaration as **Exhibit 51** is a true and correct copy of an email chain dated September 28, 2016 email chain from J. Rizack to S. Donziger and A.M. Page, produced by Page and bearing Bates number AMPagePJD_0004968. Rizack says in a September 28, 2016 email, “I had already typed up the side letter and sent it to the investor.”

53. Attached to this declaration as **Exhibit 52** is a true and correct copy of an email chain dated August 22, 2016 email chain from J. Rizack to S. Donziger and A.M. Page, produced by Page and bearing Bates number AMPagePJD_0004204. J. Rizack comments on August 22, 2016 regarding an email and comments from J. van Merkensteijn’s lawyers.

54. Attached to this declaration as **Exhibit 53** is a true and correct copy of an email chain dated August 27, 2016 email chain from A.M. Page to S. Donziger and J. Rizack, produced by Page and bearing Bates number AMPagePJD_0004337. Donziger writes to both Page and Rizack asking whether his email to an investor “look[s] acceptable.”

55. Attached to this declaration as **Exhibit 54** is a true and correct copy of an email chain dated August 3, 2016 email chain from J. Rizack to S. Donziger and A.M. Page, produced by Page and bearing Bates number AMPagePJD_0004788. In an email on August 3, 2016, Rizack gives advice to Donziger regarding an email Donziger sent to J. van Merkensteijn. Rizack says, “you don’t want to be in a position of having to ask client for more stock down the road.”

56. Attached to this declaration as **Exhibit 55** is a true and correct copy of an email chain dated January 31, 2017 email from S. Donziger to A.M. Page and J. Rizack, produced by Page and bearing Bates number AMPagePJD_0009820. Donziger notes in the email that “Josh is preparing the presentation on use of funds. We need to vet.”

57. Attached to this declaration as **Exhibit 56** is a true and correct copy of a February 4, 2019 letter from A. Neuman to J. Rizack. In this letter, Chevron’s counsel details Rizack’s deficient productions, evasive responses, and perjurious testimony and asked whether he would voluntarily submit his devices to forensic imaging”

Executed on this 16th day of July, 2019 at New York, New York.

/s/ Andrea E. Neuman
Andrea E. Neuman